

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARVIN MENIFEE, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 09-104
)	
v.)	Judge Fischer
)	Magistrate Judge Bissoon
CATHERINE C. McVEY, in her official)	
capacity as Chairman of the Pennsylvania)	
Board of Probation and Parole,)	
)	
Defendant.)	

ORDER

On February 3, 2009, the Court entered Orders: approving and adopting the parties' stipulated agreement to resolve Plaintiff's request for a Temporary Restraining Order ("TRO"), *see* Order filed under Doc. 17 at 1-2; scheduling a Preliminary Injunction Hearing before the undersigned on February 20, 2009 at 9:30 a.m., *id.* at 2; and granting Plaintiffs Marvin Meniffee's and Darrell Keener's Petition for a Writ of *Habeas Corpus Ad Testificandum* so that they may appear at the Preliminary Injunction Hearing to testify. *See* Order filed under Doc. 16. The Writ of *Habeas Corpus Ad Testificandum* was issued on February 4, 2009. *See* CM/ECF entry made that day.

Having reviewed the parties' filings to date, the Court has identified substantial issues of law that can and should be resolved before proceeding to a preliminary injunction hearing. In the undersigned's view, the aforementioned issues present threshold determinations that must be made before the Court can properly adjudicate whether these Plaintiffs may be entitled to injunctive or other relief against this Defendant. Proceeding with the hearing as scheduled

presents a substantial risk of wasting the valuable time and resources of the parties and the Court alike.

For these reasons, the Preliminary Injunction Hearing scheduled for February 20, 2009 at 9:30 a.m. is **CANCELLED**, and the Writ of *Habeas Corpus Ad Testificandum* issued for Messrs. Menifee and Keener is hereby **QUASHED**. As soon as is practicable, the undersigned will issue an order outlining the threshold issues referenced above, and the parties will be presented an opportunity to be heard regarding the same.

Finally, all of the remaining provisions of the Order dated February 3, 2009 (Doc. 17), adopted in resolution of Plaintiffs' Motion for a TRO, shall remain in full force and effect.

IT IS SO ORDERED.

February 10, 2009

s/Cathy Bissoon
Cathy Bissoon
United States Magistrate Judge

cc (via email):

Kevin L. Quisenberry, Esq.
Kemal Alexander Mericli, Esq.
Mary Lynch Friedline, Esq.